

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadia Savo	Team: Team # 1	CCRB Case #: 200514164	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/23/2005 6:05 PM	Location of Incident: West 125th Street, between 5th Avenue and Lenox Avenue	Precinct: 28	18 Mo. SOL 5/23/2007	EO SOL 5/23/2007	
Date/Time CV Reported Thu, 11/24/2005 6:29 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 11/24/2005 6:29 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Davis	25667	931624	028 PCT
2. POM Walter Loor	21092	900452	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Ueberacher	05063	934229	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Davis	Discourtesy: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)	
B.POM Brian Davis	Force: PO Brian Davis struck § 87(2)(b) with a nightstick.	
C.POM Brian Davis	Force: PO Brian Davis used physical force against § 87(2)(b)	
D.POM Walter Loor	Force: PO Walter Loor used physical force against § 87(2)(b)	
E.POM Brian Davis	Force: PO Brian Davis used physical force against § 87(2)(b)	
F.POM Brian Davis	Discourtesy: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)	

Synopsis

On November 23, 2005, at approximately 5:45pm, § 87(2)(b) and § 87(2)(b) were double parked in front of 14 West 125th Street in Manhattan. § 87(2)(b) remained in the vehicle, while § 87(2)(b) went inside the store Planet Earth. When he came out, he approached the marked patrol vehicle of two police officers, identified through investigation as PO Brian Davis and PO Walter Loor of the 28th Precinct, and discovered that he was being issued a summons. PO Davis and PO Loor exited their vehicle, and PO Davis told § 87(2)(b) to, “Get back in your fucking car before you get a summons” [Allegation A]. § 87(2)(b) replied, “Fuck you nigger, give me a summons.” PO Davis repeatedly attempted to place his hands on § 87(2)(b) and ended up striking him with a nightstick [Allegation B]. § 87(2)(b) PO Davis and PO Loor ended up fighting in the street [Allegations C and D]. The officers tackled § 87(2)(b) to the ground, and PO Davis struck § 87(2)(b) with his nightstick repeatedly while PO Loor lay on top of him. § 87(2)(b) yelled at them to stop and moved close to the officers and § 87(2)(b) PO Davis struck § 87(2)(b) above her left eye [Allegation E]. PO Davis continued to strike § 87(2)(b) with the nightstick. PO Davis told § 87(2)(b) to “Get the fuck out of my face” and took his hand and shoved her in the face, forcing her to the ground [Allegation F]. PO Davis radioed for back up at this time, multiple officers arrived, and § 87(2)(b) was arrested and transported to the 28th Precinct. § 87(2)(b) was later arrested at § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) provided a statement to IAB on November 23, 2005 (encl. 13-14). She contacted the CCRB on November 24, 2006, to file her complaint. On November 25, 2006, § 87(2)(b) was contacted regarding the complaint that she filed, at which time she provided a telephone statement (encl. 20-21). She was interviewed by the CCRB on February 3, 2006. In her statement to IAB, § 87(2)(b) admitted to attempting to intervene with § 87(2)(b)'s arrest. § 87(2)(g)

§ 87(2)(b) also provided various statements regarding her injuries to § 87(2)(b) and § 87(2)(b) on § 87(2)(b) (encl. 86-112). She complained at § 87(2)(b) of pain to chest and face and stated that she was assaulted by the police and pushed to the ground two times with a hand to the chest and an elbow to the face. She also felt chest tightness and had difficulty breathing and complained of an asthma attack. Her statements to § 87(2)(b) were not significantly different. § 87(2)(b) also called 911 on § 87(2)(b), to state that she had been assaulted by police officers (encl. 114-122). She is a black female, five feet, five inches tall, one hundred and eighty pounds, and has black hair and brown eyes. § 87(2)(b) On November 23, 2005, § 87(2)(b) sustained a laceration to her lip, internal chest pains, and a headache over her left eye. In addition, § 87(2)(b) suffered from an asthma attack. She was treated at § 87(2)(b) and § 87(2)(b) on § 87(2)(b).

On November 23, 2005, at approximately 5:45pm, § 87(2)(b) and § 87(2)(b) were coming from visiting § 87(2)(b)'s grandmother in the hospital. § 87(2)(b) also stated that they were coming from work. § 87(2)(b) was in the passenger seat of her vehicle, double-parked in front of Planet Earth, a Nextel communications store, at 14 West 125th Street, between 5th Avenue and Lenox Avenue. § 87(2)(b)'s vehicle is a 2000 red Ford Escort, and she could not recall if the car was on, but stated the music was on. § 87(2)(b) was inside of the store in order to obtain an unknown item or service for his phone. He was inside for approximately five or ten minutes.

A legal parking spot opened up, and § 87(2)(b) started to move to the driver's side, but § 87(2)(b) tapped on the back of the trunk to indicate that he was finished, and § 87(2)(b) returned to the passenger seat. § 87(2)(b) entered the vehicle, and turned the engine on and was about to drive away, but they

heard a siren go off. § 87(2)(b) and § 87(2)(b) turned and looked behind them, unsure whether the siren was meant for them or not. The siren went off a second time, and they both turned around again. § 87(2)(b) exited their vehicle and approached the passenger side of the marked patrol car. § 87(2)(b) did not hear what was said, but did look back and saw him talking with the officer. § 87(2)(b) appeared to be talking “normally.”

§ 87(2)(b) returned to the driver’s side of their car less than a minute after leaving, opened the door and took off his coat and put it in the backseat. § 87(2)(b) leaned over to the driver’s side and asked § 87(2)(b) who was still standing outside, what had happened. § 87(2)(b) informed § 87(2)(b) that they were getting a ticket. § 87(2)(b) made motions to enter the car when one of the officers, § 87(2)(b) thought it was the officer from the passenger side of the marked patrol car, approached him. He was identified as PO Brian Davis of the 28th Precinct by the Unusual Occurrence Report.

§ 87(2)(b) put his hands in the air, in a gesture as if to ask what was going on. § 87(2)(b) did not hear any words exchanged between § 87(2)(b) and PO Davis, but thought that they might have spoken. PO Davis grabbed § 87(2)(b)’s left arm, pulled it down, and struck § 87(2)(b) between the shoulder and the neck. § 87(2)(b) did not know whether he struck him with an object or not. § 87(2)(b) and PO Davis started to scuffle. The second officer approached, and participated in the scuffle. This officer was identified as PO Walter Loor of the 28th Precinct by the Unusual Occurrence Report.

The two officers and § 87(2)(b) were fighting in the middle of the street as cars were going by them. The two officers and § 87(2)(b) all participated in the scuffle, by holding onto each other, punching each other, hitting each other, and swinging their arms around. All of them were still standing. There was a large crowd of people in the area, and § 87(2)(b) stated that she heard § 87(2)(b) yell, § 87(2)(b)

§ 87(2)(b) exited the car, started jumping up and down, and screamed, “Stop! Help!” She was waving her arms up and down. § 87(2)(b) stated that she was in close proximity to the officers and § 87(2)(b) and that she was moving with them, but did not recall ever physically attempting to break up the fight, stating that she would have been too afraid of getting hurt. One of the individuals that § 87(2)(b) works with, who she only knows as “§ 87(2)(b)” physically held her back and tried to pull her away. § 87(2)(b) amended her statement to say that he was not holding her back, but simply holding her.

The scuffle moved to the side of the street next to an unknown parked car, with § 87(2)(b) against the car. § 87(2)(b) stated that they were against the car, but did not think that anyone was hit against the car. § 87(2)(b) stated that the fighting appeared more intense between § 87(2)(b) and PO Davis.

As § 87(2)(b) was yelling, “Help!” PO Davis pushed her in the chest, causing her to fall to the ground. § 87(2)(b) later amended her statement such that she was not pushed at this time, but struck above her left eye either by the officer’s forearm or fist, causing her to go down. PO Davis did not leave the scuffle to strike her, but brought his arm out and struck her.

§ 87(2)(b) stood up, and saw that § 87(2)(b) was on the sidewalk, laid out on the ground, with his back to the ground. § 87(2)(b) did not see how he got on the ground. Once on the ground, § 87(2)(b) was motionless and not fighting back – § 87(2)(b) stated that he was so still that she thought he might be dead. PO Loor was stretched out on top of § 87(2)(b)’s body, while PO Davis repeatedly swung his black nightstick against § 87(2)(b)’s legs, calves, and the top of his knees. Because PO Loor was on top of § 87(2)(b) PO Davis was also hitting PO Loor’s legs. § 87(2)(b) was screaming, “He’s down!” over and over. § 87(2)(b) stood at the head of § 87(2)(b) and stated that she was jumping up and down and screaming, but did not try and get physically involved. She was about arm length from PO Davis.

At this time, § 87(2)(b) added that PO Davis, while continuing to strike § 87(2)(b) with the nightstick, pushed her in the chest, causing her to fall to the ground. He told her, “Get the fuck out of here.” Multiple unidentified individuals yelled out, “Would you do this to your wife?” Although the crowd was close by, no one tried to get involved physically.

§ 87(2)(b) stood back up and started speaking to the civilian crowd, asking if anybody was taking pictures and if they were recording this. § 87(2)(b) went to her car and obtained a piece of paper and a pen in order to obtain the badge numbers of the officers. § 87(2)(b)'s glasses were off of her face at this point, and she was unable to focus on the officers' badges. PO Davis stated, "Get the fuck out of my face," and took his hand and shoved her in the face, forcing her to the ground. An unidentified female individual approached § 87(2)(b) and took her over to an unknown parked car, and read her the badge numbers and names of the officers. § 87(2)(b) wrote them down, but only remembered that one of the names of the officers was PO Davis. § 87(2)(b) did not know how she obtained the badge numbers of the officers.

§ 87(2)(b) saw PO Davis radio for back up, while still continuing to hit § 87(2)(b) with the nightstick. Moments later, approximately twelve uniformed officers arrived at the location, and the officer stopped hitting § 87(2)(b). § 87(2)(b) did not see § 87(2)(b) again at the location, except when she saw him sitting in an unknown police car. An unidentified officer went into § 87(2)(b)'s car and took the key out of the ignition. § 87(2)(b) asked him what he was doing and where he was taking her car. The officer informed her that she could get it at the precinct. A second unidentified officer entered her car and put the key in the ignition. She asked him if she could get her belongings, which he allowed her to do.

§ 87(2)(b) was unable to breathe properly and asked for an ambulance. § 87(2)(b) started to throw up at this time, and stated that at an unknown point during the incident she had urinated on herself. The officer that had stayed behind attempted to get a statement from § 87(2)(b). He asked her to go to the precinct with him, but multiple unidentified individuals in the area told her not to go with him. The officer told her that he had called the precinct, and that he had been informed that EMS was at the precinct. § 87(2)(b) called § 87(2)(b)'s grandmother, and § 87(2)(b)'s uncle's girlfriend came to the location. § 87(2)(b) could not remember her name. She escorted § 87(2)(b) to the 28th Precinct along with the officer that remained behind. § 87(2)(b) stated that she went to the precinct in order to obtain medical attention.

At the 28th Precinct, EMS workers treated § 87(2)(b) while an unidentified officer asked her about what happened. After being treated by EMS workers, § 87(2)(b) went to § 87(2)(b) with § 87(2)(b)'s aunt, where she received Tylenol for her headache. Three white uniformed officers met her at the hospital and told her that they had come to get a statement. The officers told her that they had a witness who informed them that she had taken a radio and kicked it down the street. § 87(2)(b) told them that it did not happen. § 87(2)(b) asked if they were at the hospital to arrest her, and she confirmed. § 87(2)(b) was subsequently arrested.

§ 87(2)(b) the mother of § 87(2)(b) also filed a complaint regarding the incident, but she was not interviewed, as she was not present for the alleged misconduct.

§ 87(2)(b) § 87(2)(b)'s boyfriend, was not interviewed due to the fact that he refused to cooperate with this investigation. He did, however, provide a brief statement to IAB on November 23, 2005 (encl. 13-14), which was mostly the same as § 87(2)(b)'s, except he admitted to using profanity against an officer identified as PO Davis, and stated that the officer told him to "Get back in your fucking car before you get a summons." In addition, he stated that PO Davis struck him in the head with a nightstick. On November 25, 2005, § 87(2)(b) was contacted via § 87(2)(b)'s phone number, at which time § 87(2)(b)'s address and phone number were confirmed. At this time an interview was scheduled with § 87(2)(b) and § 87(2)(b) for November 28, 2005. On November 28, 2005, § 87(2)(b) contacted the CCRB to reschedule for both of them. An interview was set for December 2, 2005. § 87(2)(b) did not come to the interview and did not contact the CCRB to cancel or reschedule. On December 2 and December 9, 2005, § 87(2)(b)'s home number was called and messages were left with his brother. On December 12, 2005, § 87(2)(b) § 87(2)(b)'s mother, was contacted. She stated that she had left a message for § 87(2)(b) on his cellular phone number, but refused to provide the CCRB with the number. She did provide his work number, but it was for § 87(2)(b), and his name was not found in the staff directory. On December 19, 2005, § 87(2)(b) was called and a message was left with his brother. On January 5, 2006, a final please call letter was sent to § 87(2)(b). On January 7, 2006, § 87(2)(b) was called and a message was left with his brother. On January 27 and February 24, 2006, § 87(2)(b) was called and messages were left on the voicemail. On February 25, March 1, and March 2 2006, § 87(2)(b) was called and a message was left with his brother. On March 3, 2006, the undersigned

investigator went to his apartment, but his mother, § 87(2)(b) stated that he had recently moved but she did not have a new address or phone number for him. She stated that he was often at her apartment still, and a please call letter along with several medical release forms were left for him. § 87(2)(b) has not contacted the CCRB.

Results of Investigation

Witness Statements

§ 87(2)(b) provided a brief phone statement on March 8, 2006 (encl. 45). She refused to provide her address or any additional contact or personal information besides her telephone number. She did not know § 87(2)(b) or § 87(2)(b). Her telephone number was obtained from § 87(2)(b) who had written it down at the location.

§ 87(2)(b) was in her Jeep with an unidentified individual (she refused to provide his name, stating that he did not want to get involved). Her car was behind a white two-door car that was behind the car belonging to the male individual, § 87(2)(b) in question. The white car pulled away and § 87(2)(b) had a clear view. Both § 87(2)(b) and § 87(2)(b)'s car were double-parked.

§ 87(2)(b) a white officer, identified as PO Walter Loor, and a black officer, identified as PO Brian Davis, had a conversation that § 87(2)(b) was unable to hear. PO Loor ended up pushing § 87(2)(b). This was the first physical contact that she could see. § 87(2)(b) attempted to wiggle out of his jacket, and an altercation ensued. § 87(2)(b) did not see any of them try and punch one another.

§ 87(2)(b) and PO Loor ended up on the ground, and PO Davis struck § 87(2)(b) and PO Loor with his nightstick, somewhere in the shoulder region. A female individual, identified as § 87(2)(b) tried to tell them to calm down, and specifically tried to calm down § 87(2)(b) but PO Davis pushed her in the front of her body twice. The first time she stumbled backwards but did not fall. The second time she fell over. § 87(2)(b) stated that § 87(2)(b) never physically touched PO Davis, although she might have touched § 87(2)(b) as she was bent over trying to calm him down. § 87(2)(b) was face down on the ground and was trying to get up, but the officers would not let him.

Multiple other officers arrived and § 87(2)(b) was removed from the location. § 87(2)(b) remained at the location and none of the officers helped her. She was having some sort of asthma attack and was unable to breathe well. § 87(2)(b) did not notice any other injuries on her. Five minutes after a single patrol officer that had not been at the location prior arrived, § 87(2)(b) left.

§ 87(2)(b) was interviewed by the CCRB inside of her car at the corner of West 126th Street and 5th Avenue in Manhattan on March 15, 2006 (encl. 41-44). She also provided a telephone statement on February 24, 2006 (encl. 39-40). Her telephone statement was not significantly different than her interview statement. She is a § 87(2)(b)-year-old black female, five feet, six inches tall, one hundred and sixty-five pounds, and has black hair and brown eyes. § 87(2)(b) She had never seen § 87(2)(b) and § 87(2)(b) prior to this incident. She provided her contact information to § 87(2)(b) at the location and § 87(2)(b) subsequently supplied it to the CCRB.

On November 23, 2005, at approximately 6:05pm, § 87(2)(b) and her friend § 87(2)(b) were on West 125th Street in Manhattan, with the intention of going shopping at Carol's Daughter, which is located at 22 West 125th Street. When they reached Carol's Daughter, it was in the process of closing. They heard a commotion, but § 87(2)(b) figured it was just some kids. They turned around and started heading east on West 125th Street with the intention of going to their vehicle. § 87(2)(b) saw a male individual, identified through investigation as § 87(2)(b) and two police officers, identified through investigation as PO Walter Loor and PO Brian Davis of the 28th Precinct, approximately ninety feet away in the middle of the street. They appeared to be verbally arguing, but § 87(2)(b) was unable to hear what was said. There were a couple of parked cars in the area, but § 87(2)(b) could not recall exactly where. PO Davis was a dark skinned male with a square head and a flat top. PO Loor was lighter skinned. Both were in uniform.

PO Loor and PO Davis attempted to take hold of § 87(2)(b) but § 87(2)(b) moved back towards the sidewalk and would not allow the officers to “grapple” him. § 87(2)(b) also stated that she was unsure about how the altercation started, as when she saw them for the first time, the officers were already attempting to take hold of § 87(2)(b). PO Loor and PO Davis were attempting to grab § 87(2)(b) with his hands, but § 87(2)(b) was simply pulling away from the officers. Right before § 87(2)(b) reached the sidewalk, PO Loor and PO Davis ran towards him and attempted to tackle him, but were unable to get him to the ground. § 87(2)(b) was very close to a vehicle, possibly a red SUV/Jeep. § 87(2)(b) was not fighting per se, but was wrestling by turning around, pulling his arms away, and possibly pushing the officers back off of him with his hands, not allowing the officers to get a hold of him. The fight traveled four stores or so. § 87(2)(b) stated that § 87(2)(b) never attempted to punch or kick the officers, and never fought back.

The officers eventually tackled § 87(2)(b) and a crowd gathered. § 87(2)(b) was unable to state how § 87(2)(b) was brought to the ground. A large crowd of civilians surrounded the officers and § 87(2)(b). They stood approximately fifteen feet and less from § 87(2)(b) and the officers in a circle. § 87(2)(b) was at the front of the crowd, and was approximately six feet away from § 87(2)(b). None of the individuals in the crowd ever physically became involved with the altercation between the officers and § 87(2)(b) and never touched them, but several people were screaming.

A woman, identified through investigation as § 87(2)(b), appeared inside of the circle, moving around and screaming, obviously upset. She was repeating “No, no, he’s my...” § 87(2)(b) could not hear what else she was saying. § 87(2)(b) was face down on the ground with his body twisted, and his legs twisted such that one was on top of each other. Once he reached the ground, he did not move at all and did not resist in any way. PO Loor was kneeling next to § 87(2)(b) and stretched across his body with his head very close to § 87(2)(b)’s head. He was holding § 87(2)(b)’s arms down, and § 87(2)(b)’s legs were left free. § 87(2)(b) was not moving his legs. PO Loor never hit § 87(2)(b) he was simply restraining him.

PO Davis was disheveled, and checked his clothes before taking his nightstick and repeatedly striking § 87(2)(b) on the side of his knee on his leg that was towards the sky. Multiple people yelled at PO Davis to stop, who appeared to be beating § 87(2)(b) out of anger, as he was already restrained. § 87(2)(b) did not recall PO Davis ever striking PO Loor.

§ 87(2)(b) continued to scream and yell, telling them “No.” She moved towards PO Davis, and may have put her hand on PO Davis’s shoulder to get his attention, but § 87(2)(b) was not sure if she made contact. PO Davis moved, stated, “Back the fuck up,” and moved his baton across his chest towards his shoulder as if to strike her, but he did not strike her. He stopped and said something to § 87(2)(b) that § 87(2)(b) could not recall. § 87(2)(b) continued to scream. § 87(2)(b) stated that at no point did she see § 87(2)(b) strike either of the officers or throw or kick a radio.

Somehow, PO Davis ended up pushing/punching § 87(2)(b) with his nightstick from approximately two feet away. § 87(2)(b) could not recall if he struck immediately after almost striking her, or whether he went back to striking § 87(2)(b) before pausing again. § 87(2)(b) had an injury on her face, but § 87(2)(b) stated that it appeared as if he struck her in the neck and/or shoulder area, but she was unable to see clearly, as PO Davis was facing her, and § 87(2)(b) had her back to § 87(2)(b). § 87(2)(b) was propelled back, but § 87(2)(b) did not think that she fell on the ground. § 87(2)(b) continued to yell, repeating “No.”

At this time, ten or more uniformed officers came from behind § 87(2)(b) and weeded through the crowd such that they were surrounding PO Loor, PO Davis and § 87(2)(b). § 87(2)(b) could no longer see § 87(2)(b) and did not see him handcuffed or witness any injuries on him. One of the officers that arrived was a thirty-year-old bald white male, approximately six feet, four inches, to six feet, six inches tall. § 87(2)(b) first stated that PO Davis had already discontinued hitting § 87(2)(b) when the officers came, but she later changed her mind and stated that he might have still been hitting him when the other officers came, as she did not recall ever seeing PO Davis stop hitting § 87(2)(b).

§ 87(2)(b) attempted to get the attention of the tall, bald officer, but either he or PO Davis, § 87(2)(b) said both of them at different times, told § 87(2)(b) to “Back the fuck up.” § 87(2)(b) told one of the officers that § 87(2)(b) was § 87(2)(b)’s “lady.”

§ 87(2)(b) was immediately ushered away into a car, § 87(2)(b) could not recall exactly what it looked like, which § 87(2)(b) later stated was her own. The officer that was driving it, § 87(2)(b) did not know which officer this was, performed a U-turn and sped away. § 87(2)(b) was left at the location by herself. She was hysterical and was sitting on the ground, with a bunch of unidentified male individuals that had seen everything riling her up by saying that they would not have allowed that to happen, and that they were going to do this and that to “him.” § 87(2)(b) and § 87(2)(b) decided to remain at the location, as they were women.

§ 87(2)(b) was interviewed by the CCRB inside of the retail store Planet Earth, located at 12 West 125th Street in Manhattan, on March 4, 2006 (encl. 30-32). He is a § 87(2)(b)-year-old white male, five feet, six inches tall, one hundred and forty-five pounds, and has brown hair and brown eyes. He had never seen either § 87(2)(b) or § 87(2)(b) prior to this incident. He was identified as witness during a canvass conducted by the CCRB at Planet Earth.

On November 23, 2005, at approximately 6:05pm, § 87(2)(b) was inside of Planet Earth shopping. He heard a commotion and went outside, where he stood near his friend § 87(2)(b). There were approximately forty people in the area, and there was a male individual, identified through investigation as § 87(2)(b) face down on the sidewalk. He was not handcuffed. There were ten police officers in the vicinity, most of them in uniform. There were approximately six black male officers standing over § 87(2)(b) beating him up. § 87(2)(b) was approximately seven feet away. One of the officers was punching him in the ribs on his back with his hands. One of the officers was hitting him in the head, the ribs, and the legs with a nightstick. § 87(2)(b) was unable to describe the officers any further than that they were black male officers. One of the officers took hold of § 87(2)(b)’s leg and pushed it to the side, bending it. § 87(2)(b) was moving around, and attempting to punch and push the officers away. He was moving his arms and his back. The four other officers that were interacting with § 87(2)(b) were also beating him, punching him and pushing him to the ground.

A female individual that § 87(2)(b) identified as § 87(2)(b)’s wife, identified through investigation as § 87(2)(b) was standing to the side, saying, “Don’t hit him” and “Calm down.” She was attempting to protect § 87(2)(b) but § 87(2)(b) stated that she was not doing this by pushing the officers away, but by talking to them. § 87(2)(b) did not physically get involved and did not touch the officers, but § 87(2)(b) also said that she might have become more involved, but he did not know. One of the officers pushed § 87(2)(b) in the chest area, forcing her back. § 87(2)(b) was crying and she backed away. A different uniformed officer pulled her away and talked to her.

Twenty or forty officers arrived, most of them in uniform. § 87(2)(b) was placed in handcuffs and taken away in his own car. § 87(2)(b) was left at the location by herself crying. § 87(2)(b) could not recall her having any specific injuries, but thought that she complained of knee pain. He did not see any blood on her. He did see blood on the ground from § 87(2)(b) and stated that he had injuries on his back and face. He had swollen eyes and a lot of blood.

§ 87(2)(b) was interviewed by the CCRB over the telephone on March 9, 2006 (encl. 34-36). He also provided a telephone statement on Marcy 7, 2006, which was not significantly different than his interview statement (encl. 33). He is a § 87(2)(b)-year-old black male. He is six feet tall, one hundred and eighty pounds, and has black hair and black eyes. He had never seen § 87(2)(b) or § 87(2)(b) prior to this incident and has not seen them since. He provided his contact information to § 87(2)(b) at the location and § 87(2)(b) subsequently supplied it to the CCRB.

On November 23, 2005, at approximately 6:05pm, § 87(2)(b) was inside of Sambuya African Imports talking to the owner, who he does business with, when the store employees came running inside and multiple people started running outside. § 87(2)(b) went outside and saw a light-skinned African-American or Hispanic uniformed officer, identified as PO Walter Loor, holding a male individual,

identified as § 87(2)(b) face down into the ground with his knee in his back. § 87(2)(b) was at the front of a large circle of civilians that had circled around them from a foot to two feet away. He was close enough to touch PO Loor, but neither he nor any of the other civilians ever physically became involved or touched the officers.

PO Loor had his knee in § 87(2)(b)'s back, and was holding both of his arms up. § 87(2)(b) was not struggling against the officers, although his legs were moving a little, as a second officer, identified as PO Brian Davis, hit § 87(2)(b) repeatedly on his thighs and legs with the nightstick. There was also a female individual, identified as § 87(2)(b) who was screaming, repeatedly telling the officers to leave § 87(2)(b) alone. She was a little further away than the crowd, and whenever she came closer, PO Davis would stop hitting § 87(2)(b) and go through the crowd and push her. He pushed her more than three times in the stomach, chest, face and head. § 87(2)(b) thought that she may have fallen to the curb at one point, but could not recall. He also stated that § 87(2)(b) never physically tried to touch or grab either of the officers. After PO Davis pushed § 87(2)(b) he headed back and continued to hit § 87(2)(b).

Multiple people in the crowd yelled to the cops to either leave § 87(2)(b) alone, or to place him in handcuffs. Multiple people, including § 87(2)(b) also yelled that they were going to kill him. A marked patrol car with a black, clean-shaven, uniformed male officer drove by at one point, but § 87(2)(b) stated that the officer would not have been able to see PO Davis beating § 87(2)(b) as PO Davis was crouched over § 87(2)(b) blocking the view. The officer from the patrol car came over and helped get § 87(2)(b) off the ground. Fifteen to twenty-five officers arrived at the location. Once the other officers arrived, PO Davis discontinued hitting § 87(2)(b). § 87(2)(b) was eventually handcuffed, although § 87(2)(b) could not recall exactly who placed the handcuffs on him, or how his arrest was affected.

§ 87(2)(b) had blood on his face, shirt, and arms. § 87(2)(b) had a scratch on her face and her mouth was bleeding. She had trouble breathing, but § 87(2)(b) thought this could have been because she had been screaming. § 87(2)(b) as well as others in the crowd, advised § 87(2)(b) to go to the hospital, but without the police. § 87(2)(b) stood there for approximately thirty minutes, until § 87(2)(b) was taken away in a police vehicle. § 87(2)(b) returned to Sambuya African Imports. He stated that during the incident, his cousin Saleem was standing slightly behind him, and had taken a picture with his phone of PO Davis beating § 87(2)(b) with a nightstick.

§ 87(2)(b) was interviewed over the phone by the CCRB on March 11, 2006 (encl. 37-38). He is a § 87(2)(b)-old black male § 87(2)(b). He is five feet, eleven inches tall, one hundred and sixty-five pounds, and has black hair and brown eyes. Prior to this incident, he had never come into contact with § 87(2)(b) or § 87(2)(b). He provided his contact information to § 87(2)(b) at the location and she subsequently supplied it to the CCRB.

On November 23, 2005, at approximately 6:05pm, § 87(2)(b) was with his uncle, § 87(2)(b) inside of Sambuya African Arts Imports, Inc. on West 125th Street, between 5th Avenue and Lenox Avenue in Manhattan, when he heard a commotion and went outside. He walked onto the sidewalk and went to the front of a large crowd of people. He was not more than five feet away from an officer holding a male individual, identified as § 87(2)(b) by his shirt. There were two officers present. One of the officers was black, identified through investigation as PO Brian Davis, and one of the officers was Hispanic, identified through investigation as PO Walter Loor. § 87(2)(b) could not recall which officer was holding § 87(2)(b) but thought it may have been PO Loor. § 87(2)(b) was leaning against a car, while one of the officers was holding on to his shirt, possibly on his collar. § 87(2)(b) was asking repeatedly what he did. § 87(2)(b) was not trying to hit the officer, but was simply struggling to get away. The officer was attempting to force § 87(2)(b) onto the ground by using his hands to hit § 87(2)(b) in the face. § 87(2)(b) tried to hold the officer's hands and tried to push him away in order to get loose. § 87(2)(b) never saw § 87(2)(b) strike the officer. The second officer was telling the crowd to move away.

Eventually § 87(2)(b) ended up on the ground, but § 87(2)(b) could not recall how it happened. PO Loor was on top of § 87(2)(b). § 87(2)(b) thought that § 87(2)(b) was face up, but he was not sure.

PO Loor was holding him on the ground, by holding his upper body, including his arms, face, and chest. § 87(2)(b) was resisting by pushing the officer away.

PO Davis repeatedly kicked § 87(2)(b) on the side of his chest while he was on the ground. A female individual, identified as § 87(2)(b) stood very close to § 87(2)(b) and was trying to get the officers away from § 87(2)(b) although she never physically got involved with the altercation between the officers and § 87(2)(b). After PO Davis discontinued hitting § 87(2)(b) he approached her and struck her with his hands, but § 87(2)(b) could not recall where she was hit. He stated that he did see her bleeding from her mouth. The crowd was meanwhile yelling, but no one attempted to get involved.

Approximately seven to eight officers arrived at the location and took § 87(2)(b) away in a patrol car. § 87(2)(b) could not see him clearly enough at this point because there were so many people and therefore could not tell whether he had any injuries on him. He did not see any injuries on any of the officers.

§ 87(2)(b) was left at the location and was sitting crying on the sidewalk. She told § 87(2)(b) that she was § 87(2)(b)'s sister. § 87(2)(b) gave his number to § 87(2)(b) who proceeded to give it to § 87(2)(b). Shortly thereafter, § 87(2)(b) left her sitting on the sidewalk and went back into Sambuya African Arts Imports, Inc.

§ 87(2)(b) identified § 87(2)(b) and seven unknown individuals as witnesses, as they had provided their phone numbers to her at the location of the incident. § 87(2)(g)

Canvass

A canvass was conducted on March 3, 2006, on the street, West 125th Street, where the incident took place, at the approximate time of incident. It yielded one interview from § 87(2)(b) noted above in the Witness Statements sections. No one else would provide a statement. For details, see the Investigative Actions (encl. 156).

Officer Statements

PO Brian Davis of the 28th Precinct was interviewed by the CCRB on March 8, 2006 (encl. 51-53). He is a § 87(2)(b)-year-old black male, five feet, eight inches tall, two hundred and eight pounds, and has black hair and brown eyes. On November 23, 2005, PO Davis was in uniform working with PO Walter Loor performing sector patrol in a marked patrol car. He worked from 3:00pm until 11:35pm. According to his memo book (encl. 46), at 6:00pm, PO Davis issued a parking summons in front of 12 West 125th Street. At 6:40pm, he went to § 87(2)(b). PO Davis also provided a statement on the Criminal Court Complaint (encl. 47-48), which was mostly similar to his interview statement, except that he also stated that § 87(2)(b) repeatedly kicked him and his partner. PO Davis also filed a Line-Of-Duty Injury Report (encl. 49). The statement he provided was mostly similar to his interview statement, although he again stated that § 87(2)(b) kicked him, which he did not state in his interview statement. PO Davis also provided a statement for the Line-of-Duty Injury Report filed by PO Loor (encl. 50), writing that he observed the defendant § 87(2)(b) punching and kicking PO Loor, causing him to fall to the ground and sustain injuries to PO Loor's left shoulder and ankle. PO Davis also provided a statement (encl. 9-10), which was intermingled with a statement provided by PO Loor, on the Unusual Occurrence Report. It was mostly the same as his statement to the CCRB, except he again stated that § 87(2)(b) kicked him.

On November 23, 2005, at approximately 6:05pm, PO Davis and PO Loor were patrolling when they pulled up behind a car. They beeped the horn for the car to move, but no one moved the car. There was a female individual, identified through investigation as § 87(2)(b) in the passenger side of the vehicle. Approximately thirty seconds later, PO Davis got out and started to write a parking summons. § 87(2)(b) approached irate and asked why he was getting a parking summons. PO Davis amended his statement to say that when § 87(2)(b) exited the store nearby, identified through investigation as Planet

Earth, PO Davis was sitting inside of his patrol car in the passenger seat. § 87(2)(b) approached the patrol car, and PO Davis asked him to return to his vehicle. He asked why he was being issued a summons. § 87(2)(b) returned to his vehicle and took his coat off, before returning to PO Davis's vehicle and asking again why he was being issued a summons. He appeared irate, and was cursing, saying, "Motherfucker, you issuing me a summons." When told to go back to his vehicle, he repeatedly stated, "Fuck you," before returning to his vehicle. He was very loud, and there were multiple people in the area.

PO Davis exited his vehicle to place the summons on § 87(2)(b)'s car. § 87(2)(b) was next to his vehicle, and PO Davis approached him to place the summons on the vehicle. § 87(2)(b) stood immediately in front of PO Davis, while PO Loor, who had also exited the vehicle, stood off to the side. PO Davis asked § 87(2)(b) for his driver's license. At this request, § 87(2)(b) punched PO Davis on the left side of his face with his right arm. This was the first time they made physical contact. PO Davis stated that he requested § 87(2)(b)'s license because he had cursed at them, and he wanted to identify him, and possibly issue him another summons. PO Davis sustained a black eye from the initial punch.

PO Davis attempted to subdue § 87(2)(b) in order to arrest him. PO Davis and PO Loor both tried to grab § 87(2)(b)'s arms, but § 87(2)(b) continued to punch at them and kept his fists up. PO Davis and PO Loor fought § 87(2)(b). PO Davis managed to grab hold of one of § 87(2)(b)'s arms, but § 87(2)(b) is a large, strong man, and he managed to pull away from PO Davis's grip. PO Davis and PO Loor attempted to trip him up. § 87(2)(b) repeatedly swung his arms and punched PO Davis in the face three or four times. § 87(2)(b) also hit PO Loor. PO Loor attempted to tackle § 87(2)(b) but he pushed him off and away from him. PO Davis stated that while § 87(2)(b) was trying to punch him and swing at him, he continually tried to grab hold of him. Eventually, he remembered that he had devices that he could use. PO Davis stated that he never punched or kicked § 87(2)(b) but he did, at an unknown point, try to run at him and push him to the ground, but it did not work. PO Loor never punched or kicked PO § 87(2)(b) either. The officers managed to get § 87(2)(b) against a taxi, but the taxi drove off, and § 87(2)(b) regained his footing and started punching and swinging at the officers again.

After § 87(2)(b) managed to punch PO Davis for the third time, the force of which knocked him to the ground, PO Davis took out his retractable baton (asp). PO Davis hit § 87(2)(b) in the arm to stop him from punching him. PO Davis stated that he was not specifically striking § 87(2)(b) with the asp, but that when § 87(2)(b) would try and punch him, he would hold up the asp to block the punches. PO Davis's asp mostly made contact with § 87(2)(b)'s left upper and lower arm/side area. PO Loor did not take out his asp.

PO Davis went to grab his radio, and PO Loor managed to get § 87(2)(b) to the ground. PO Loor grabbed § 87(2)(b) around his legs, and both PO Loor and § 87(2)(b) went to the ground, with § 87(2)(b) lying face up. PO Loor landed on top of him. PO Loor was on his knees over § 87(2)(b) who was continuing to fight by kicking his legs out. § 87(2)(b) attempted to wrestle PO Loor off of him by reaching across his body and grabbing hold of either his vest or clothing and trying to pull him off. PO Davis stated that PO Loor is much smaller than § 87(2)(b) is. PO Davis repeatedly hit § 87(2)(b)'s hand and forearm with his asp, at the part of his body where he had hold of PO Loor, in an attempt to get him to stop fighting and to let go of PO Loor. PO Davis and PO Loor also repeatedly gave verbal commands, saying, "Stop fighting." § 87(2)(b) continually cursed at them and refused to stop fighting.

§ 87(2)(b) approached, screaming, but PO Davis could not recall what she was saying. PO Davis had not seen her before this. § 87(2)(b) told § 87(2)(b) to grab hold of PO Davis's radio, which he still had out. § 87(2)(b) stated, "No, that's my husband." PO Davis was about to call the 10-85, which he had not done yet, when § 87(2)(b) grabbed PO Davis's arm with the radio, and the radio flew on to the ground. PO Davis said, "Get back," and pushed § 87(2)(b) back into the crowd. He stated that he pushed her with his left hand, somewhere on her neck down. PO Davis grabbed his radio off the ground and attempted to call the 10-85 again. § 87(2)(b) approached and grabbed his arm again, stopping him from radioing in. PO Davis pushed her back again in the same way. He did not think that she fell to the ground. At this time, PO Davis managed to radio in the 10-85. PO Davis stated that at no time did either he or his partner use any profanity towards § 87(2)(b) or § 87(2)(b). The unidentified members of the crowd were

heckling, but PO Davis could not recall what anyone specifically stated. He denied that any member of the crowd physically became involved.

PO Loor was still trying to hold § 87(2)(b) on the ground, while § 87(2)(b) was still trying to pull/push PO Loor off of him. PO Loor told him, "Stop fighting." PO Loor was on his knees and his hands, holding down § 87(2)(b)'s left arm, while § 87(2)(b) was fighting and struggling against PO Loor with his right arm. PO Davis was behind PO Loor hitting § 87(2)(b)'s hand. Multiple officers responded to the location. As the officers arrived, PO Davis discontinued hitting § 87(2)(b) with the baton (asp). He did not think the arriving officers would have seen him hit § 87(2)(b). PO Davis stated that he might have hit PO Loor with his asp, but he did not think so. PO Davis stated that he did not recall specifically hitting § 87(2)(b) anywhere in the leg region of his body, but stated that it was possible. He did not, at any time, hit § 87(2)(b) in the head with his asp. PO Loor did not use his asp at any time, and PO Davis did not use his asp against § 87(2)(b).

A couple of unidentified officers attempted to help PO Davis and PO Loor in handcuffing § 87(2)(b) and § 87(2)(b) again approached and tried to physically grab on to the other officers, saying, "No, that's my husband." A different, unidentified female officer grabbed § 87(2)(b) and pulled her away, telling her that she was going to get arrested. A different unidentified officer managed to turn § 87(2)(b) over and handcuff him. PO Davis stated that he was very tired at this point, and that they had been unable to handcuff § 87(2)(b) before the rest of the officers arrived. PO Davis's eye was swollen and he was unable to recall how § 87(2)(b) was physically arrested as he could not see very well and was in shock. At no point did § 87(2)(b) stop resisting. PO Davis was immediately transported to § 87(2)(b).

§ 87(2)(b) was arrested later, and PO Davis made the identification. At the location, PO Davis did not see any injuries on § 87(2)(b). Later, at the precinct, while looking at his mug shot, he noticed that § 87(2)(b) had injuries. He did not notice any injuries on § 87(2)(b). PO Davis sustained an injury to his arm and his eye. He had bruising and swelling.

PO Walter Loor of the 28th Precinct was interviewed by the CCRB on March 6, 2006 (encl. 61-63). He is a § 87(2)(b)-year-old Hispanic male, five feet, seven inches tall, and has brown eyes and black hair. On November 23, 2005, he worked sector patrol with PO Brian Davis. He was dressed in uniform and was assigned to a marked patrol car. He worked from 4:00pm until 12:00am. According to his memo book (encl. 54-56), at 6:00pm, PO Davis called a 10-85 (need additional unit) at 12 West 125th Street. PO Loor also provided a statement on the Criminal Court Complaint (encl. 57-58), which was mostly similar to his interview statement. PO Loor filed a Line-of-Duty Injury Report (encl. 59), which stated that while attempting to assist his partner who was being assaulted, the male perpetrator § 87(2)(b) knocked him to the ground, causing him to sustain injuries to his ankle and shoulder. PO Loor also filed a statement for the Line-of-Duty Injury Report filed by PO Davis (encl. 60), which was consistent with his statement to the CCRB. PO Loor also provided a statement, which was intermingled with a statement provided by PO Davis, on the Unusual Occurrence Report (encl. 9-10). It was mostly the same as his statement to the CCRB. His statement was mostly similar to the statement provided by PO Davis, with a few exceptions and additions noted below.

According to PO Loor, when PO Davis asked § 87(2)(b) for his license and registration, § 87(2)(b) took off his coat and said, "I'm not giving you no fucking shit." PO Davis told § 87(2)(b) to turn around and went to grab § 87(2)(b)'s hands. § 87(2)(b) immediately punched PO Davis in his face. PO Loor later stated that PO Davis told § 87(2)(b) to turn around, immediately after which § 87(2)(b) punched him in the face, and that they did not try to grab him until after he had punched him. He stated that they did not touch him until § 87(2)(b) punched PO Davis.

After attempting to subdue § 87(2)(b) PO Loor and PO Davis held § 87(2)(b) against the taxi. But then the taxi drove off and they lost their footing. § 87(2)(b) got loose and started kicking at the officers again. He ran over to the sidewalk. PO Loor and PO Davis went after him and tried to grab his arms. PO Loor took out his baton, stating that he did so because § 87(2)(b) was a large male and was fighting. While § 87(2)(b) was running away and trying to strike him, PO Loor struck § 87(2)(b) with his asp on his forearm and on his knee. PO Loor stated that he could not describe whether he struck § 87(2)(b).

with an asp at any other time. PO Loor stated that he put § 87(2)(b) to the ground, but when asked to describe how this was affected, he stated that he grabbed § 87(2)(b) after he had struck him, and then they fell to the ground. The large crowd of civilians was moving forward and trying to help § 87(2)(b). PO Loor stated that members of the crowd physically put their hands on his back when he was on the ground with § 87(2)(b). PO Davis attempted to move the crowd back and called a 10-85 (need additional unit).

On the ground, § 87(2)(b) continued trying to punch and kick PO Loor. He was not handcuffed yet and PO Loor stated that § 87(2)(b) was trying to “get him” and that PO Loor was trying to “get him” too. PO Loor was on top of § 87(2)(b) who was face up, and they were struggling. § 87(2)(b) repeatedly tried to push PO Loor away. PO Loor repeatedly told § 87(2)(b) to “Relax.” PO Loor stated that § 87(2)(b) never stopped resisting. Multiple unidentified officers arrived and pulled PO Loor off of § 87(2)(b). PO Loor did not know how long he was struggling with § 87(2)(b) and did not know how long before the officers arrived. PO Loor hurt his shoulder and his ankle. He did not see any injuries on § 87(2)(b) or on § 87(2)(b). He did not think that § 87(2)(b) sustained any injuries. A different, unknown officer handcuffed § 87(2)(b) and PO Loor did not see what happened to § 87(2)(b). Both PO Loor and PO Davis were subsequently taken to the hospital. PO Loor did not know what happened to § 87(2)(b). PO Davis was at the hospital for an indeterminate amount of time, PO Loor could not recall how long he was at the hospital for, and then returned to the precinct to fill out his Line of Duty injury report. He saw § 87(2)(b) at the precinct in a holding cell, but did not interact with him. He did not see § 87(2)(b). PO Loor has never seen § 87(2)(b) or § 87(2)(b) since or before this incident.

PO Peter Ueberacher of the 28th Precinct was interviewed by the CCRB on March 6, 2006 (encl. 84-85). He is a § 87(2)(b)-year-old white male, six feet, three inches tall, one hundred and eighty pounds, and has brown hair and blue eyes. On November 23, 2005, he was dressed in uniform and was assigned to a foot post. He worked from 3:00pm until 11:35pm. According to his memo book (encl. 64-67), PO Ueberacher entered the pedigree information for § 87(2)(b) and at 7:15pm, he was given permission to release \$835, a black wallet, and a driver’s license to § 87(2)(b)’s mother, § 87(2)(b), § 87(2)(b), and § 87(2)(b) signed below. At 7:30pm, § 87(2)(b) repeatedly stated, “I’m going to kill him...the black cop [PO Brian Davis].” At 8:17pm, he gave the keys to a 2001 red Ford Escort to § 87(2)(b). § 87(2)(b) signed. At 10:30pm, he called the Assistant District Attorney’s office regarding the arrest, but they did not want to speak to PO Brian Davis or PO Walter Loor. ADA Chung interviewed PO Ueberacher at § 87(2)(b). At 12:30am, ADA Chung received the signed deposition. At 12:35am, he confirmed the first defendant. At 1:30am, Sgt. Meehan of IAB interviewed PO Ueberacher. PO Ueberacher also prepared the arrest paperwork for § 87(2)(b) and § 87(2)(b) (encl. 68-71). On the Complaint Report (encl. 72-73), he reported that the defendant § 87(2)(b) urged “ten or more persons to engage in tumultuous and violent behavior to create public alarm.” He filled out an Aided Report for PO Davis (encl. 74-78), stating that PO Davis was punched in the mouth with a closed fist, causing a laceration to his lower lip. He also filled out an Aided Report for PO Loor (encl. 79-83), stating that PO Loor suffered torn ligaments to his left ankle while affecting an authorized arrest. PO Ueberacher was not present for any of the alleged misconduct and was unable to provide testimony concerning what happened at the location of the incident.

Medical Records (encl. 86-112)

§ 87(2)(b)’s medical records were not obtained as he refused to cooperate with the investigation.

§ 87(2)(b) went to § 87(2)(b) on § 87(2)(b). On the Emergency Department Patient Record, it states that § 87(2)(b) complained of pain to her chest and face. She was allegedly assaulted by the police and pushed to the ground two times with a hand to the chest. She was also pushed in the face with an elbow. She felt chest tightness and had difficulty breathing. She used a bystander’s asthma pump. § 87(2)(b) also complained of pain in the vicinity of the left eyebrow and the chest. She was diagnosed with a left forehead contusion and a chest contusion. She alleged assault. On the Emergency Department Triage Assessment/Reassessment Record, it states that § 87(2)(b) complained the police assaulted her. On § 87(2)(b), she now complained of pain in forehead and chest. She had a contusion to both places. She was found sitting in the 28th Precinct complaint of pain to the area above her left eye and chest pain. She coughed and vomited during an asthma attack, which was relieved by a

bystander's albuterol pump prior to the arrival of EMS. Her chief complaint was that she had an asthma attack.

§ 87(2)(b) went to § 87(2)(b) on § 87(2)(b). Her primary diagnosis was contusions to her face and chest. She stated that the police assaulted her that day in her head and chest. § 87(2)(b) claimed that she was not prepared, was given Motrin, and then discharged. On the Emergency Department sheet, her chief complaint was listed as headache and chest soreness. When asked where the location of her pain was, it was listed as above her left eye, head and chest.

§ 87(2)(b) went to § 87(2)(b) Center on § 87(2)(b). Under the Patient Statement/Assessment section, it states that she was an "NYPD prisoner for medical clearance" and her Past Medical History included asthma. Under the Physician's Notes, it states that she has asthma. She was given albuterol for her asthma.

Police Documents

Three **SPRINT** jobs were generated with regards to this incident (encl. 114-122). § 87(2)(b) called 911 at 6:09pm to report that she was assaulted by police officers at West 125th Street and Lenox Avenue in Manhattan. IAB requested a patrol supervisor to the location. A male individual informed PO Kim from IAB that § 87(2)(b) had an asthmatic condition and a lip injury. At 6:24pm, there was a crime arrest made. At 6:25pm, EMS was requested to the location in regards to the female individual that was assaulted. At 6:27pm, IAB requested that the lieutenant confirm whether the 10-13 (assist police officer) was related. At 6:27pm, the EMS callout to West 125th Street and Lenox Avenue was requested to be disregarded and to have EMS sent to the 28th Precinct Station House. At 6:33pm, the female individual that was having difficulty breathing was taken to the 28th Precinct Station House. As of 11:45pm, there were two crime arrests made. At 5:47, items were being thrown at passing cars near Planet Earth at West 125th Street, between 5th Avenue and Lenox Avenue. A crime arrest was made and additional units were requested. At 6:03pm, it was noted that there were two injured police officers, both of whom were being transported to § 87(2)(b). One officer had an injured shoulder. One officer had an injured jaw. The officers were taken to the hospital. At 6:06pm, an ambulance was requested to respond to the 28th Precinct Station House for a perpetrator. At 6:16pm, EMS was requested to the location for an injured female individual. An anonymous caller stated that at West 125th Street and 5th Avenue, a male and female individual were assaulted.

There were no apparent injuries to § 87(2)(b)'s face in her **Mugshot Pedigree** (encl. 27-28). In § 87(2)(b), he has slight swelling to his face and has a slight laceration below his right eye.

A **Medical Treatment of Prisoner Report** (encl. 113) was not filled out for § 87(2)(b) but one was filled out for § 87(2)(b) stating that he had abrasions to his face and arm and contusions on his forehead and right side of his hand.

PO Brian Davis filed a **Line-of-Duty Injury Report** (encl. 49). Sgt. Thomas Alps reported that PO Davis reported that while he was acting in an official capacity and in the performance of duty, a male perpetrator § 87(2)(b) assaulted him by striking him in the face with a closed fist and knocking him to the ground. As a result of the perpetrator's actions, PO Davis sustained visible lacerations, swelling, and bruising to his face. In addition, PO Davis received substantial pain to his hand.

PO Walter Loor filed a **Line-of-Duty Injury Report** (encl. 59). Sgt. Thomas Alps reported that PO Loor reported that while acting in an official capacity and in the performance of duty, a male perpetrator § 87(2)(b) assaulted him by punching him about his body and pulling him to the ground. As a result of the perpetrator's actions, this officer sustained bruising and swelling to his ankle [torn ligaments] as well as substantial pain to his shoulder [strain].

Sgt. Thomas Alps of the 28th Precinct filled out an **Unusual Occurrence Report** (encl. 9-10). PO Brian Davis and PO Walter Loor were identified as the subject officers from this document. It was documented

that § 87(2)(b) received a minor laceration under his left eye as the result of his actions, while § 87(2)(b)'s injuries were nothing to report.

Civilian CCRB and Criminal Conviction History

This was the first complaint filed by § 87(2)(b) and § 87(2)(b) (encl. 6-8).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer CCRB Histories

PO Walter Loor has had two substantiated allegations for CCRB case number 9301487 in his fourteen year tenure with the NYPD (encl. 4). A disposition was unavailable from the NYPD. **PO Brian Davis** has had no substantiated allegations in his three-year tenure with the NYPD (encl. 5).

Conclusions and Recommendations

Officer Identification

PO Brian Davis and **PO Walter Loor** were both identified from the Unusual Occurrence Report (encl. 9-10). Neither of them disputed their presence at the location. PO Davis is a black male officer while PO Loor is a Hispanic male officer. § 87(2)(b) identified the black male officer as the one that pushed her and struck § 87(2)(b) and PO Davis admitted to using force against her and to using his baton against § 87(2)(b). Both PO Loor and PO Davis admitted to using some level of force against § 87(2)(b) and thus the physical force allegations concerning were pled against both of them. § 87(2)(b) also identified the black male officer as the officer that used profanity against her as well as stating that he was the only officer she verbally and physically interacted with, and thus the discourtesy allegation concerning § 87(2)(b) is pled against PO Davis. The discourtesy allegation concerning § 87(2)(b) is being pled against PO Davis as well as § 87(2)(b) alleged the discourtesy against the officer that issued him the summons, which was PO Davis.

Undisputed Facts

It is **undisputed** that while PO Davis and PO Loor attempted to issue § 87(2)(b) a lawful summons for double parking a physical altercation ensued between the officers and § 87(2)(b) that PO Davis utilized some level of force against § 87(2)(b) that PO Davis struck § 87(2)(b) with his nightstick, that § 87(2)(b) attempted to obstruct the officer's from arresting § 87(2)(b) in some fashion, that both § 87(2)(b) and § 87(2)(b) sustained a certain level of injuries, and that PO Loor and PO Davis sustained injuries as a result of the incident.

Facts in Dispute

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation A: Discourtesy: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)
Allegation B: Force: PO Brian Davis struck § 87(2)(b) with a nightstick.
Allegation C: Force: PO Brian Davis used physical force against § 87(2)(b)
Allegation D: Force: PO Walter Loor used physical force against § 87(2)(b)

§ 87(2)(g)

[REDACTED]

Allegation E: Force: PO Brian Davis used physical force against § 87(2)(b)
Allegation F: Discourtesy: PO Brian Davis spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Davis told her to, “Get the fuck out of here,” as well as, “Get the fuck out of my face,” as well as physically pushed her and elbowed her in her upper body two separate times. § 87(2)(b) § 87(2)(g) heard PO Davis order § 87(2)(b) to “Back the fuck up,” as well as witnessed PO Davis use some level of force against § 87(2)(b) § 87(2)(g) PO Davis admittedly told § 87(2)(b) to back up, but both he and PO Loor denied that any use of profanity was involved. § 87(2)(g)

According to *Police Department v. Matias*, OATH Index Nos. 1996/00 & 1997/00 (Sept. 8, 2000), “Depending on the circumstances, profanity is permissible where the officer has resorted to such language in order to forcefully make a point, to gain compliance with an order or direction or in the heat of a highly dangerous situation” (encl. 1-3). § 87(2)(g)

[REDACTED]

§ 87(2)(b) and § 87(2)(b) witnessed § 87(2)(b) attempting to get the officers away from § 87(2)(b) although they denied that she physically became involved. § 87(2)(b) was unable to recall whether § 87(2)(b) physically touched PO Davis, but placed § 87(2)(b) close enough to PO Davis that she could have touched him, § 87(2)(g)

[REDACTED]

According to § 87(2)(b) PO Davis struck her above her left eye and pushed her

in the chest, forcing her back. Although § 87(2)(b) did sustain a minor injury above her left eye according to her medical records, it was extremely minor in nature and did not require any significant amount of medical treatment and was not even visible in her mugshot photograph. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: